



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,360	10/06/2005	Henry Petersen	A5-1952	3912
27127	7590	06/07/2007		
HARTMAN & HARTMAN, P.C. 552 EAST 700 NORTH VALPARAISO, IN 46383			EXAMINER HOOK, JAMES F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/535,360</p>	<p>Applicant(s) PETERSEN ET AL.</p>	
	<p>Examiner James F. Hook</p>	<p>Art Unit 3754</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee, under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

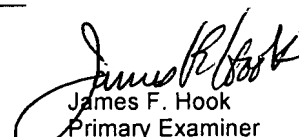
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


James F. Hook
Primary Examiner
Art Unit: 3754

Continuation of 11. does NOT place the application in condition for allowance because: with respect to the argument that all the references recite helical corrugations, such is not persuasive when only the patent to Jung mentions helical corrugations, the other references to Katayama and Muller do not set forth that they are helically or spirally corrugated. Also, Webster's Collegiate Dictionary, 10th edition, does not require corrugations to be parallel ridges or furrows therefore, the definition of such is contrary to other known definitions, and it is considered that even a helically corrugated pipe would have parallel ridges and furrows, and any corrugation is perpendicular to the longitudinal central axis in that it radiates out from it at a 90 degree angle. The current claim language is broader than the arguments presented, and if applicant is attempting to claim annular corrugations then such must be claimed as annular and disclosed as annular otherwise the broader language encompasses both annular and helical corrugations. With respect to the argument that the prior art references teach more structure than applicant is claiming, such is not persuasive when the term "comprising" is being used in the claims. This language is open ended and would include references teaching the desired structure whether further layers are added or not, and the claim language sets forth details of a specific layer and is not worded in such a manner as to exclude additional layers being present, where the corrugated layers of each reference meets the claimed subject matter as set forth in the rejection and further discussed in the previous office actions arguments section. Defining outside and inside surfaces of a layer which makes up the device disclosed does not exclude the possibility of additional layers being present attached to those surfaces, especially when the term "comprising" is used. With respect to the argument that the claim language is in some way defining a mathematical equation by reciting "continuous curve" is not persuasive when no such mathematical equation is recited in the claims, therefore in its broadest interpretation a continuous curve would be defined by the prior art where the corrugated wall surface is continuously curving. With respect to the argument that Katayama does not show curvature of the outside surface being smaller than the top portions, one need only look at the upper portion of the pipe shown in the figure of Katayama which does show the curvature of the outside surface of the top portion being larger than the bottom portion. Therefore this argument is not persuasive when layer A represents the inner layer of the pipe and in the figure this layer shows on the upper half of the conduit to have corrugations having curvature that is larger at the top than at the bottom. With respect to any premise that altering the corrugations from helical to annular would in any way degrade or destroy the references is considered moot at this time when such is not an applied rejection, however, it is old and well known in the art to use the two types of corrugations interchangeably as taught by the prior art, and they prior art of record could also be used to modify other annularly corrugated tubes to have similar shaped corrugations, especially when Jung is the only reference that recites helical corrugations. The arguments are therefore not persuasive and the claims are still rejectable under the recited references as set forth in the previous final rejection mailed March 22, 2007.